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THE CONCEPT OF LEGAL PROTECTION FOR NURSES TAKING INVASIVE ACTIONS AT INDEPENDENT NURSING PRACTICE

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ABSTRACT

Article 1 Permenkes No. 290/Menkes/Per/III/2008 states that an invasive procedure is a medical action that is recognized as the authority of a doctor. Facts in the field there are still nurses who carry out invasive actions without supervision from a doctor, even though the authority to carry out medical actions is only obtained if there is a delegation of authority from a doctor. This is where there is an overlap regarding the duties and authority of nurses who carry out invasive actions in independent nursing practice so that it will be dangerous if left unchecked and not given legal protection. The formulation of the problem in this study is to determine the legal protection for nurses who perform invasive actions in independent practice. This research method uses a normative-sociological juridical approach with primary and secondary data collection. Primary data was obtained from literature review and also legislation or statutes of approach, and secondary data was obtained by purposive sampling technique. The type of design in this research is descriptive design. The data obtained were then analyzed qualitatively. The results showed that the number of nurses in Central Java Province was 5370 people. In Surakarta alone the number of nurses is 853 people, while the data of nurses who practice Independent Nursing is only 7 people in the data held by the Surakarta City Health Office. Legal protection is given to nurses on a preventive basis, namely by providing guidance and supervision by the health department and also the professional organization of the Indonesian National Nurses Association, although there is no Regional Regulation that regulates this action.

Keywords: *Legal Protection of Nurses, Invasive Action, Independent Nursing Practice.*

INTRODUCTION

A nurse is a person (a professional) who has the ability, responsibility and authority to carry out nursing services/care at various levels of nursing services. Nursing is an applied science that uses professional intellectual skills, communication and technology applications, and uses the nursing process in helping patients/families and communities to achieve optimal levels of health.

One of the efforts to realize Health Development in the community is to organize Individual Health Efforts (UKP). This UKP service to the community has been developed by professional organizations including the nursing profession which aims to find solutions to health problems that often occur in the community. UKP services in the form of independent practice of nurses must be able to provide health services to the community in accordance with the authority of a professional nurse. Nursing services are in the form of comprehensive or holistic bio-psycho-socio-spiritual services aimed at individuals, families, and communities, both sick and healthy, covering all processes of human life.

Based on The National Working Meeting of The Central Regional Commission II on The Healthy Paradigm of Promotive and Preventive Efforts in Disease Control and Environmental Health, it was stated that one of the focal points in the National Mid-Term Development Plan 2015-2019 was increasing promotive and preventive efforts by health workers. This is due to the high mortality and morbidity rates in Indonesia, which shows that promotive and preventive efforts are not yet optimal, and still places more emphasis on curative aspects. With the presence of independent nursing practice, preventive and promotive efforts can be used as a solution to overcome various health problems that exist in the community.

Reflecting on the rampant medical malpractice carried out by nurses, which is caused, among other things, by the absence of strict regulations from the government. Especially the lack of supervision of independent nursing practice, plus the absence of regulations that clearly describe what things are allowed or prohibited in independent nursing practice, thus making nurses perform several nursing actions in the form of invasive actions which are considered very risky, let alone done independently without supervision from a doctor. In fact, the nurse's authority is the authority to carry out nursing care actions, while the authority to carry out medical actions is only obtained if there is a delegation of authority from the doctor.

Article 1 Regulation of The Minister of Health No. 290/MENKES/PER/III/2008 states that invasive action is a medical action that can directly affect the integrity of the patient's body tissues. It is very possible that invasive measures, such as; injection, circumcision, and so on which are carried out by nurses are medical actions and are the authority of doctors. This is where there is a legal dilemma in the health sector, plus there are no instructions or regulations regarding the types of medical actions that can be performed by nurses in independent nursing practice, which often causes overlapping of nursing care duties and tasks that are delegated from the doctor's authority.

RESEARCH METHOD

This research method uses normative juridical and sociological juridical approaches with the type of research design used is Descriptive Design. The variables in this study are independent variables. Data collection techniques in this study were carried out by collecting primary and secondary data. Primary data were obtained from literature review and also legislation or statutes of approach, while secondary data was obtained by purposive sampling technique on nurses who performed invasive actions in independent nursing practice through questionnaires. This research was conducted in Surakarta City within a period of three months starting from July 2021 to

September 2021. The number of samples in this study were 7 respondents throughout Surakarta City. The data analysis technique in this study uses qualitative analysis techniques, to answer the problem of how the concept of legal protection is for nurses who perform invasive actions in independent nursing practice.

RESULTS AND DISCUSSION

Legal protection is a protection given to legal subjects in the form of legal instruments, both preventive and repressive, either written or unwritten. In other words, legal protection is a description of the function of the law itself, namely the concept where the law can provide justice, order, certainty, benefit and peace.

According to Satjipto Rahardjo, the law protects a person's interests by allocating power to him to act in a measurable manner. Interest is the target of rights because rights contain elements of protection and recognition. It can be concluded that legal protection is an activity to maintain or maintain the community in order to achieve justice. Then legal protection is constructed as a form of service, and the subject is protected.

Sudikno Mertokusumo revealed that humans in their lives are surrounded by various kinds of dangers that threaten their interests, so that often their interests or desires are not achieved. Legal rules are intended to protect human interests, in this case legal rules are needed to protect nurses who work in Health Service Facilities.

Abintoro Prakoso explained that the basic assumption put forward by progressive law is regarding the view of the relationship between law and humans. something wider and bigger. So whenever there is a problem in and with the law, it is the law that is reviewed and corrected and not the human being who is forced into the legal scheme. This means that if there is a dilemma in nursing law, it is the regulation that should be corrected and not nurses who are forced to enter into all existing regulations.

Fitzgerald quotes the term legal protection theory from Salmond that the law aims to integrate and coordinate various interests in society because in a traffic of interests, protection of certain interests can be done by limiting various interests on the other hand. The interest of the law is to take care of human rights and interests, so that the law has the highest authority to determine human interests that need to be regulated and protected. Legal protection must look at the stages, namely legal protection is born from a legal provision and all legal regulations provided by the community which are basically an agreement of the community to regulate behavioral relations between community members and between individuals and the government which are considered to represent the interests of the community.

Conceptually, it can be interpreted that legal protection for nurses is the fulfillment of the nurse's interests in carrying out their duties and responsibilities as professional health workers who cannot be carried out or who experience obstacles in their implementation.

Based on the theory in the discussion above, the researcher defines the concept of legal protection for nurses in invasive actions in independent nursing practice as follows:

Table. 1.1
Legal Protection Efforts for Nurses

Preventive Safeguards	Repressive Safeguards
Preventive safeguards include: 1. From myself: a. Completeness of service administration which includes; Diplomas, Nurse Registration Certificate, Nurse Practice License, and Certificates of Competence.	Repressive safeguards include: 1. From oneself, namely by: providing compensation or guarantees to the client if

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<ul style="list-style-type: none"> b. Services with the principles of Patient Safety, Professional Standards, Standard Operating Procedures, Standard Legislation. c. Fulfillment of Client's Rights, and Nurses' Obligations. <p>2. From other people, namely by:</p> <ul style="list-style-type: none"> a. The existence of counseling, seminars and workshops on law for nurses. b. The existence of policies or implementing regulations that are able to protect the practice of nurses made by the Head of Health Service Facilities, the Health Office, and also the Regional Government. or Village Government. c. There is a partnership between the Indonesian National Nurses Association Professional organization and other professional organizations, as well as law enforcement officers. 	<p>the client has felt aggrieved.</p> <p>2. From other people, namely by conducting mediation represented by a mediator from a legal aid institution to assist in resolving disputes.</p>
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Table. 1.2
The Types of Legal Protection for Nurses

Economy	Social	Political
Fulfillment of the right to compensation for services that have been provided and the use of all facilities provided while carrying out their profession.	Fulfillment of social welfare, namely the fulfillment of the basic needs of professional health workers from the state and the institutions under it.	Implementation of the Institution's functions in fulfilling legal ideals in the health sector: 1. Legislative, 2. Executive, 3. Judicial.

Table. 1.3
Elements of Legal Protection for Nurses

Elements of Protective Action	Elements of The Protecting Parties	Element of Ways to Protect
<ul style="list-style-type: none"> 1. Legal Defense and Assistance. 2. Coaching and Mentoring. 3. Mediation 	<ul style="list-style-type: none"> 1. The Indonesian National Nurses Association Organization. 2. Department of Health. 3. Director of Hospital/Clinic, and Head of Public Health Center. 4. Legislative Regulatory Officer. 5. Legal Aid Institute. 	<ul style="list-style-type: none"> 1. Implementation of Rights and Obligations. 2. Guidance and consultation. 3. Counseling. 4. Incidental policy making by stakeholders.

As a form of legal protection for nurses who take invasive actions in independent nursing practice, this has actually been seen in preventive legal efforts made by State Institutions, namely; Law No. 38/ 2014, and Regulation of the Minister of Health No. 26/2009.

As Article 36 letter a of Law no. 38/2014 concerning Nursing which reads:

"Nurses in carrying out nursing practice have the right to obtain legal protection as long as they carry out their duties in accordance with service standards, professional standards, standard operating procedures, and provisions of laws and regulations".

Then Article 58 paragraph (2) of Law no. 38/2014 on Nursing reads:

“Everyone who does not have a Registration Certificate, does not have a Nurse Practice License, does not install an independent nursing practice nameplate, does not have competence, will be subject to administrative sanctions in the form of; verbal warning, written warning, administrative fine, and license revocation”.

The same thing was conveyed by Tri Suyanti who said that in the city of Surakarta there is no regional regulation that specifically regulates the authority and legal protection for nurses, there are regulations from the center, namely Law No. 26/2019, and all the nurses knew about it. What

the Surakarta City Health Office has done so far is by providing guidance and monitoring, the rest is for a fatality or unexpected failure, the Health Office will try its best to provide assistance.

In the Legal Information and Documentation Section of the Surakarta City Government, there is no Regional Regulation that regulates invasive actions on nurses. This indicates that the Surakarta City Government regulations are still guided by existing regulations, namely Law No. 38/2014 and Regulation of the Minister of Health No. 26/2019.

Yuli Muhammad Kartiko, said that related to legal protection for nurses who carry out invasive procedures, is to provide guidance and assistance because it is feared that the nurse concerned will perform nursing services beyond the reasonable limit.

Based on the results of the analysis above, the researcher concludes that nurses in therapeutic transactions in the field of nursing services are protected by the central government and local governments through laws and regulations that apply to nursing practitioners. Patients who receive invasive procedures also get safety guarantees as stated in Article 58 paragraph (1) of Law no. 36 of 2009 concerning Health which reads:

"Everyone has the right to claim compensation for a person, health worker, and/or health provider who causes losses due to errors or omissions in the health services they receive".

CONCLUSION

Nurses who carry out invasive actions in preventive independent nursing practice have been protected by the central government and local governments through guidance and supervision by the health department and also the professional organization of the Indonesian National Nurses Association although there is no Regional Regulation that regulates invasive actions on these nurses. For the nurse, the most important thing is that the person involved in performing the invasive procedure must pay attention to the principle of patient safety and also have a practice permit or competency mastered. It can automatically provide preventive legal protection.

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